

# Don't post photos of others on social media without consent



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LEGAL VIEW

**Q:** I attended a wedding in Al Ain last month, where I made the acquaintance of many guests who graced the occasion. I also came in contact with a woman who was friendly in her interaction with me, and with whom I went on to pose for photographs. Thereafter, I posted a selfie I clicked with her on one of my social media accounts as a story without seeking permission from the said woman, considering that she, too, had posted many photographs of herself and others from the same wedding on her accounts. However, now the said woman has threatened to file a case against me for posting a photograph (in which she is present), without her consent. Further, the photograph I had posted is no longer there on my account. Will there be any legal implications?

**A:** It may be noted that posting a photograph in which a woman is present, without her permission on a social media platform constitutes an offence in accordance with Article 359 of the Penal Code, which states:

"Any person who obstructs a female in such a manner as to violate her prudence by word, deed or by using information technology or any other means shall be punished by a jail term not exceeding one year and a fine not exceeding Dh10,000, or by either of these two penalties..."

Posting a photograph on any social media platform without the consent of the person who is present in the photograph also constitutes an offence in the United Arab Emirates. This is in accordance with Article 21 (2) and (3) of the Federal Law No. 5 of 2012 on Combating Cybercrimes (the 'Cyber Law'), which states:

"(The offender) shall be punished by imprisonment of a period of at least six months and a fine not less than Dh150,000 and not in excess of Dh500,000 or either of these two penalties whoever uses a computer network or an electronic information system or any information technology means for the invasion of privacy of another person in other than the cases allowed by the law and by any of the following ways:


- Photographing others or creating, transferring, disclosing, copying or saving electronic photos.
- Publishing news, electronic photos or photographs, scenes, comments, statements or information even if true and correct.

"(The offender) shall also be punished by imprisonment for a period of at least one year and a fine not less than Dh250,000 and not in excess of Dh500,000 or either of these two

penalties whoever uses an electronic information system or any information technology means for amending or processing a record, photo or scene for the purpose of defamation of or offending another person or for attacking or invading his privacy."

As you have mentioned that you and the woman posed together at the time of the photographs being taken, it may be presumed that she had given her consent owing to the said woman not objecting to the photographs

### Know the law

 Consent should be obtained of the person who is present in the photograph to be posted on a social media platform. Photographs of individuals are their private affair and posting them on social media may lead to breach of their privacy.

being taken. However, it may be pertinent to note that the aforesaid consent may only pertain to a photograph being taken and not to it being further posted on a social media platform. The consent should be obtained of the person who is present in the photograph to be posted on a social media platform. Photographs of individuals are their private affair and posting them on social media may lead to breach of their privacy.

In response to your query, whereas you have mentioned that the photograph in which the woman is present, was posted on one of your social media accounts as a story for a duration of 24 hours. It may be noted that if the said woman has taken the screenshot of the photo which is along with you when it was on posted on your social media account then the woman may be able to prove that the photograph she is present in was posted by you.

In pursuance of the aforementioned provisions of law, the said woman may file a criminal complaint against you, in the public prosecution or the police station having jurisdiction. Based on the said complaint, the public prosecution or the police may register a criminal case against you if it is deemed that a crime has been committed, upon an investigation of the complaint and perusal of the evidence submitted by the complainant against you. It may be prudent on your part to take the assistance of a legal counsel who may assist you in this matter.

### Email correspondence can be produced as proof in court

**Q:** I was employed as a business executive for the past five years by a construction company based in Dubai. My employer has not reimbursed me for fuel costs which amount to Dh9,500. I am in possession of several email correspondenc-

es from my manager wherein it is stated that the said reimbursement has been approved by my employer. However, after I tendered my resignation, my employer has refused to pay the aforementioned fuel reimbursements due to me along with my end of service settlement. Do I have the right to file a case against my employer? Is email correspondence considered as proof in the court of law?


**A:** Email correspondence from your previous employer is admissible as evidence to prove the acceptance by your previous employer of the reimbursements due to you. This is in accordance with Article 12 (1) of the Electronic Transactions and Commerce Law No. 2 of 2002 (the 'Electronic Transactions Law'), which states:

"(1) Nothing shall prevent the acceptance of an electronic communication or electronic signature as proof:

- (a) Solely on the ground that the communication or the signature was electronic in its form.
- (b) Solely on the ground that the communication or the signature was not original or in its original form, if such electronic communication or signature is the best evidence that the person adducing it could reasonably be expected to obtain."

Based on the aforementioned provisions of law, it may be noted that if your previous employer refuses to settle your end-of-service benefits and fuel reimbursements due to you, you may approach the Ministry of Human Resources and Emiratization (Mohre) and file a complaint along with relevant documentary evidence such as reimbursement receipts and email correspondence. The Mohre may consider your claim of Dh9,500 towards reimbursement of petrol expenses incurred by

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you as a separate matter and may not link it with your end of service benefits.

If there is no amicable settlement, the Mohre may issue a letter to file an employment case against your previous employer in the court which has jurisdiction to hear the matter.

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